

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/511,421

Confirmation No.: 4654

Applicant: PATERNOSTER, Joe

Group Art Unit: 3739

Filing Date: 10/14/2004

Examiner: ROANE, Aaron F

Docket No.: 298.41

**DECLARATION OF HAROLD JENSEN
PURSUANT TO 37 CFR § 1.131 IN
SUPPORT OF RESPONSE TO OFFICE
ACTION DATED AUGUST 10, 2007**

Customer No.: 08685

(SUBMITTED THROUGH EFS-WEB)

For: USE OF THERMOREGULATORY
MATERIAL TO IMPROVE
EXERCISE PERFORMANCE

Dear Sir:

I, Harold Jensen, the second named inventor of the subject matter of the rejected claims of U.S. Patent Application No. 10/511,421, as well as the Manager of Research and Development of DriWater, Inc., make the following declaration pursuant to Patent Office Rule 131 in connection with the above-identified patent application:

1. In 1997 and 1998, I, the second named inventor of the above patent application, spent several months in Egypt setting up a new factory to manufacture DriWater® hydration product. I was in Egypt to train the workers to plant trees using the DriWater® hydration product that was product in the new factory. Enclosed as Exhibit A are true and correct copies of photographs of myself and Joe Paternoster in Egypt in 1997.
2. Both Joe and I found the extreme desert temperature to be overbearing. On the other hand, we noticed that the DriWater® hydration product always remained cool. Based on that observation, I decided to try and use DriWater® hydration product as a body coolant. I opened a 1.0L carton of DriWater® hydration product and sliced off a half-inch piece from the bottom. I then placed the sliced piece under my hat. I immediately perceived a lower temperature of about 10-15°F. I continued to use DriWater® hydration product as a coolant under my hat throughout my stay in Egypt in 1997, and again in 1998. As a

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PATENT
Response to Office Action of Aug. 10, 2007

a coolant under my hat throughout my stay in Egypt in 1997, and again in 1998. As a result of my experiences, I concluded that DriWater® hydration product is a viable body coolant product. I discussed my experiences with DriWater, Inc. management, including Joe Paternoster. Enclosed as Exhibit B is a true and correct copy of a note dated July 1, 1998 that I wrote and placed in our files briefly summarizing my experiences using DriWater® hydration product as a body coolant product.

3. Upon return from Egypt to DriWater, Inc. office in Santa Rosa, California, I continued my experiments with using DriWater® hydration product as a body coolant product. During business meetings with Joe and other Driwater, Inc. employees I discussed my findings. During those meetings, Joe suggested using different amounts of DriWater® hydration product on different locations on the body to vary the cooling effect. Joe and I also discussed different ways to wear the DriWater® hydration product. Enclosed as Exhibit C are three pages of undated notes detailing some of my later experiments with the composition of DriWater® hydration product as a body coolant product, as well as the different materials that could be used to hold the DriWater® hydration product against the wearer's skin. Although these notes are undated, I wrote them prior to March 23, 2001.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18, U.S.C. and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Executed on February 8, 2008 at Santa Rosa, California.

By:

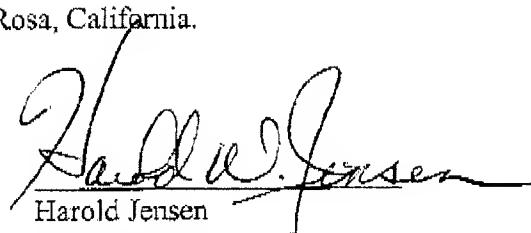

Harold Jensen
DriWater, Inc.

EXHIBIT A



EXHIBIT B

7-1-98

I experimented with
great success using DR. WATER
as a coolant in Egypt
in 1997 & 1998 - I would
cut a half inch thick slice
of the bottom of a goat
blaze and on top of my
head under my hat.

Howard Parker

RIDGEWOOD

J A 9/2/2001

POSTED 2003-08-25 14:54:00 BY SPARTA

EXHIBIT C

0 0 10 100

Body Temperature Controller, Hot & Cold

1- CMC / Ammonium Sulfate

* Guar Gum Chromium Sulfate

2- Food Grade (friendly) Preservative

Sodium Benzoate

Potassium Sorbate

Citric Acid

Ascorbic Acid

Sulphur Dioxide

Phosphoric Acid

b- Food Grade (unfriendly)

Calcium Propionate

Sodium Nitrate

Sodium Sulfite of Sulfite

bi sulfite

Meta bi sulfite

Disodium EDTA

BHA

Potassium bi sulfite

BHT butylated hydroxy toluene

c- Non Food Preservative

* Ethanol

* Sorbitol

* glycerol

3- Oxygen

Aerated Water

Liquid Oxygen

4. Water

Tap & Filtered

Natural Spring

Distilled

5. 1 - 10% Cellulosic agar gel
1 - .8% Alum / Chromium Sulfate but not limited
to these

6. Odor Eliminators

Scents / Fragrances

Vanilla, Vanilla nut, tropical, Pina Colada
musk, Jasmine, Baby Powder, Angelsinging
Carnation & such etc.

7. Colors

Gel could be colored with any inert
food color

Container, applicator, garment could be in
designer colors

8. Gel could be used medically as a
moisturizer or antibiotic applicator

9. Packaged in porous, open cell packets would be
disposable.

10. Aseptic packets would be reusable
Applicators

1. Hats, helmets, Pads direct to the scalp

2. Neck Rings

3. Vests, Flock Jackets

4. Body Belts / Wraps

5. Thigh Pads / arm Bands

Material

Silk, Cotton, Wool, Polyester, Rayon
 Fibre Glass, Aluminum, Mesh, Stainless Steel mesh
 cheese Cloth, Polyethylene -

Users Everyone

Athletes -

Military

Firemen

Police men

Mail Carriers

Delivery Personnel (UPS, Fed Ex etc)

Construction Workers

Carpenters, Plumbers, electricians, painters
 heavy equipment operators, Laborers, truck
 drivers

Students

Other

Complete Body Suits

Therapeutic balls

Cold packs

Hot packs

Slip & Slide

Coolant for shipment of perishable products

Plastic Surgery, Plastic Reconstruction -

Note: We don't claim non-toxic if we include
 toxic Materials *